

Notice of Allowability

Application No.

09/827,256

Examiner

Gordon J. Stock

Applicant(s)

EMPEDOCLES ET AL.

Art Unit

2877

PM

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received January 3, 2006.
2. ☒ The allowed claim(s) is/are 5,11,24,25,27,32,34,35,37-42,45,47,48,53 and 54.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Gregory J. Towley, Jr.
Supervisory Patent Examiner

DETAILED ACTION

1. Amendment received January 3, 2006 has been entered into the record.

Allowable Subject Matter

2. **Claims 5, 11, 24, 25, 27, 32, 34, 35, 37-42, 45, 47, 48, 53, and 54** are allowed.

The following is an examiner's statement of reasons for allowance:

As to **claim 5**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a spectral label identification method the steps of generating a second spectrum and identifying the second body, in combination with the rest of the limitations of **claim 5**.

As to **claim 11**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a spectral label identification method the steps of drawing the first body and drawing the fluid, in combination with the rest of the limitations of **claim 11**.

As to **claim 27**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method the steps of spatially restraining and generating a first spectrum, in combination with the rest of the limitations of **claims 27, 24, and 25**.

As to **claim 32**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method the steps sweeping and inhibiting transmission, in combination with the rest of the limitations of **claim 32**.

As to **claim 34**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a multiplexed assay system the particular optical train and plurality of bodies, in combination with the rest of the limitations of **claim 34**.

Art Unit: 2877

As to **claim 35**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a multiplexed assay system the particular optical train and plurality of bodies, in combination with the rest of the limitations of **claims 35, 37-42**.

As to **claim 45**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a multiplexed assay system the particular plurality of bodies, in combination with the rest of the limitations of **claims 45, 47, 48, and 53**.

As to **claim 54**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a multiplexed assay system the particular energy transmitter and optical train, in combination with the rest of the limitations of **claim 54**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Fax/Telephone Numbers

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The

Art Unit: 2877

form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (571) 273-8300

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.

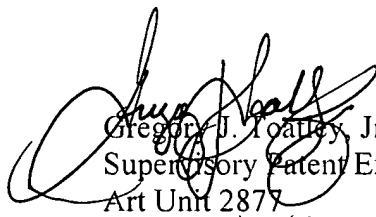
The examiner can normally be reached on Monday-Friday, 10:00 a.m. - 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached at 571-272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gs

January 18, 2006


Gregory J. Toatley, Jr.
Supervisory Patent Examiner
Art Unit 2877
23 Jan 06